

TUESDAY, OCTOBER 2, 2001

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:10 a.m. with Chairman Parrish and Mr. Klehs present, Ms. Mandel present on behalf of Dr. Connell in accordance with Government Code Section 7.9.

LEGAL APPEALS MATTERS, CONSENT

Action: (Motion expunged.)

FRANCHISE AND INCOME TAX MATTERS, CONSENT

Action: (Motion expunged.)

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT

With respect to the Homeowner and Renter Property Tax Assistance Matters, Consent Agenda, upon a single motion of Mr. Klehs, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Mr. Klehs and Ms. Mandel voting yes, Mr. Chiang and Mr. Andal absent, the Board made the following orders:

Donald M. Simpson, 99729

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Albert Winzer, 102951

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Henry Wright, 102953

2000, \$442.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Earlene Owens, 103013

2000, \$556.25 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

John A. Pamela, 103014

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

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Bobby Boyer, 104231

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Edward Cox, Jr., 104268

2000, \$406.25 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Ronnie J. Smith, 104383

2000, \$1.00 or more Claim for Credit

Action: Reverse the action of the Franchise Tax Board.

Viola Stephens, 104396

2000, \$223.20 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Robbie L. West, 104439

2000, \$193.75 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Santos Perez, 111825

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Clarence R. Wilson, Sr., 111841

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Patricia A. Turner, 104766

2000, \$100.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Maurillia Velasques, 104775

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Barbara J. Pratt, 105465

2000, \$1.00 or more Claim for Credit

Action: Reverse the action of the Franchise Tax Board.

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James Wilson, 105524

2000, \$12.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Louie Munoz, 105571

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

David Gotham, 109610

2000, \$230.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Thermon Hall, 109615

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Le Anne Hambright, 111796

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Ramona Marin, 111798

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Mark A. Owens, 111823

2000, \$600.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

**SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS, AND
REFUNDS, CONSENT**

With respect to the Sales and Use Tax Matters, Credits, Cancellations, and Refunds, Consent Agenda, upon a single motion of Mr. Klehs, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Klehs and Ms. Mandel voting yes, Mr. Chiang and Mr. Andal absent, the Board made the following orders:

Signature Office Furniture Inc., SR AA 11-670003; 118178

7-1-00 to 9-30-00, \$58,147.56

Action: Approve credit and cancellation as recommended by staff.

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Wurth USA West Inc., SR EH 23-859299; 89000428820

7-1-94 to 12-31-97, \$257,022.87

Action: Approve credit and cancellation as recommended by staff.

Transit Leasing Corp, SP H UT 84-014605; 135110

9-29-99 to 9-29-99, \$3,141,295.44

Action: Approve credit and cancellation as recommended by staff.

Management Investment Enterprises, SP H UT 84-018277; 130540

9-19-99 to 9-19-99, \$1,650,704.16

Action: Approve credit and cancellation as recommended by staff.

Heilig-Meyers Furniture Co., SR Z OHB 99-444115; 127650

10-0-97 to 8-15-00, \$80,564.05

Action: Approve credit and cancellation as recommended by staff.

Ferrante Financial Services Inc., SR AC 99-456721; 127646

7-1-97 to 12-31-97, \$60,542.12

Action: Approve credit and cancellation as recommended by staff.

Moyco Technologies Inc., SC OHB 99-888990; 135112

1-1-97 to 12-31-99, \$69,282.76.00

Action: Approve credit and cancellation as recommended by staff.

Red Robin International Inc., SR Y OH 12-698482; 134786

7-10-00 to 10-1-00, \$173,457.48

Action: Approve refund as recommended by staff.

Colony Products Inc., SR AA 14-039231; 118739

1-1-98 to 12-31-00, \$73,263.36

Action: Approve refund as recommended by staff.

Consolidated Electrical Distributors. Inc., SR Z AC 19-155586; 89000254960

10-1-92 to 9-30-95, \$182,875.76

Action: Approve refund as recommended by staff.

Edwards Theatres Circuit Inc., SR Y EAA 24-625325; 134785

10-1-97 to 8-23-00, \$493,650.22

Action: Approve refund as recommended by staff.

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Sacramento Medical Foundation Center for Blood Research, SU KH 28-300359; 134299
1-1-98 to 12-31-00, \$61,977.84

Action: Approve refund as recommended by staff.

Krauss Maffei Corporation, SC OHA 30-655116; 76451
1-1-99 to 6-30-00, \$82,836.73

Action: Approve refund as recommended by staff.

Gate Gourmet Inc., SR Y OHA 30-664220; 60927
10-1-95 to 6-30-00, \$1,921,101.96

Action: Approve refund as recommended by staff.

Toyoda Machinery USA Inc., SR OHA 30-668405; 111714
7-1-00 to 9-30-00, \$116,301.26

Action: Approve refund as recommended by staff.

SGS Thompson Microelectronics, Inc., SR Z OHC 30-671318; 134418
4-1-96 to 6-30-97, \$193,865.60

Action: Approve refund as recommended by staff.

Transamerica Investment Management LLC, SR AA 52-011290; 134027
10-1-97 to 12-31-00, \$58,286.44

Action: Approve refund as recommended by staff.

Payden and Rygel, SR AA 52-011293; 132226
10-1-97 to 3-31-01, \$97,549.80

Action: Approve refund as recommended by staff.

Metropolitan West, SR AS 52-011302; 133464
10-1-97 to 12-31-00, \$85,804.21

Action: Approve refund as recommended by staff.

Imperial Capital LLC, SR AS 52-011303; 132508
10-1-97 to 12-31-00, \$58,368.85

Action: Approve refund as recommended by staff.

Capital Group Research, Inc., SR AA 52-011466; 132755
1-1-98 to 12-31-00, \$210,957.55

Action: Approve refund as recommended by staff.

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Copart Inc., SZ F UT 84-028698; 109458

4-6-00 to 4-6-00, \$51,032.82

Action: Approve refund as recommended by staff.

Kinko's Network Inc., SR AR 97-033298; 132775

1-1-97 to 3-31-00, \$773,684.07

Action: Approve refund as recommended by staff.

Kinko's Network Inc., SR AR 97-033298; 134793

4-1-00 to 12-31-00, \$149,222.56

Action: Approve refund as recommended by staff.

Edwards Megaplex Holdings LLC, SR Y EA 97-271589; 134783

1-1-97 to 8-23-00, \$328,954.09

Action: Approve refund as recommended by staff.

General Dyeing & Finishing Inc., SR AA 97-774982; 134813

1-1-98 to 12-31-00, \$68,818.79

Action: Approve refund as recommended by staff.

Rental Service Corporation, SR Z OH 97-831948; 134100

4-1-01 to 6-30-01, \$1,564,805.20

Action: Approve refund as recommended by staff.

Southern California Edison Co., SR Z AP 98-000037

7-1-00 to 3-31-1, \$2,080,408.50

Action: Approve refund as recommended by staff.

Vision Advertising Inc., SR AS 99-402061; 36962

10-1-95 to 3-31-00, \$403,328.42

Action: Approve refund as recommended by staff.

SALES AND USE TAX MATTERS, REDETERMINATIONS AND DENIALS OF CLAIMS FOR REFUND, CONSENT

With respect to the Sales and Use Tax Matters, Redeterminations and Denials of Claims for Refund, Consent Agenda, upon a single motion of Mr. Klehs, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Mr. Klehs and Ms. Mandel voting yes, Mr. Chiang and Mr. Andal absent, the Board made the following orders:

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Trek Industries Inc., SR AP 17-684396; 89000200210

7-1-93 to 12-31-96, \$66,476.54

Action: Approve Redetermination as recommended by staff.

U-Haul Company of California, SR Z OH 21-631505; 16517

7-1-94 to 6-30-97, \$235,939.61

Action: Approve Redetermination as recommended by staff.

Kinetic Systems Inc., SR Z GH 26-664975; 89000646430

10-1-93 to 6-30-97, \$177,093.12

Action: Approve Redetermination as recommended by staff.

Rotation Dynamics Corporation, SR Y OHA 30-657888; 42649

4-1-96 to 3-31-99, \$122,074.81

Action: Approve Redetermination as recommended by staff.

Information Leasing Corporation, SR S OHA 30-702078; 90757

7-1-96 to 9-30-99, \$52,691.61

Action: Approve Redetermination as recommended by staff.

Samuel J. Licato, et al., SB G UT 82-680104; 105471

12-26-97 to 12-26-97, \$136,400.00

Action: Approve Redetermination as recommended by staff.

Gary P. Schroeder, SB G UT 84-021289; 113462

5-27-99 to 5-27-99, \$158,358.75

Action: Approve Redetermination as recommended by staff.

AAS Aircraft Services Inc., SP H UT 84-022706; 114979

2-14-00 to 2-14-00, \$1,172,187.50

Action: Approve Redetermination as recommended by staff.

Turn Key Resources, SC OH 97-574640; 40906

4-1-91 to 3-31-99, \$178,063.51

Action: Approve Redetermination as recommended by staff.

Alpha Beta Company, SR Y AA 98-009419; 80227

1-9-95 to 4-26-98, \$80,960.10

Action: Approve Redetermination as recommended by staff.

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Artesyn North America, Inc., SR KH 99-828802; 57636
10-1-97 to 12-31-97, \$85,415.59

Action: Approve Redetermination as recommended by staff.

Sunshine Biscuits Inc., SR CH 21-608913; 59413
10-1-94 to 10-27-97, \$126,177.36

Action: Approve denial of claim for refund as recommended by staff.

SPECIAL TAXES MATTERS, DENIALS OF CLAIMS FOR REFUND, CONSENT

With respect to the Special Taxes Matters, Denials of Claims for Refund, Consent Agenda, upon a single motion of Mr. Klehs, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Mr. Klehs and Ms. Mandel voting yes, Mr. Chiang and Mr. Andal absent, the Board made the following orders:

Core-Mark International, Inc., CP ET 50-000243; 135645
7-1-01 to 7-31-01, \$93,689.08

Action: Approve the denial of claim for refund as recommended by staff.

Core-Mark International, Inc., CP ET 50-000239; 135650
7-1-01 to 7-31-01, \$121,807.35

Action: Approve the denial of claim for refund as recommended by staff.

Core-Mark International, Inc., CP ET 50-000246; 135653
7-1-01 to 7-31-01, \$110,523.94

Action: Approve the denial of claim for refund as recommended by staff.

Core-Mark International, Inc., CP ET 50-000241; 135654
7-1-01 to 7-31-01, \$57,449.98

Action: Approve the denial of claim for refund as recommended by staff.

Core-Mark International, Inc., CP ET 50-000242; 135656
7-1-01 to 7-31-01, \$204,819.29

Action: Approve the denial of claim for refund as recommended by staff.

Core-Mark International, Inc., CP ET 50-000236; 135660
7-1-01 to 7-31-01, \$215.34

Action: Approve the denial of claim for refund as recommended by staff.

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Core-Mark International, Inc., CP ET 50-000238; 135661
7-1-01 to 7-31-01, \$18,287.18

Action: Approve the denial of claim for refund as recommended by staff.

PUBLIC HEARING

PROPOSED AMENDMENTS TO PROPERTY TAX RULE 905, ASSESSMENT ELECTRIC GENERATION FACILITIES

Lawrence Augusta, Assistant Chief Counsel, Property Tax Section, Legal Division, made introductory remarks regarding proposed amendments to Property Tax Rule 905, Assessment Electric Generation Facilities.

Speakers: Allison C. Pratt, Lobbyist, TURN
Marianne Reich, Division Chief Auditor Controller,
County of Los Angeles
Garrett Evans, Director of Economic Development, City of Pittsburg
John H. Knox, Partner, Orrick, Herrington & Sutcliffe LLP,
City of Pittsburg
Troy E. Thompson, Attorney, Orrick, Herrington & Sutcliffe LLP,
City of Pittsburg
Daniel G. Clark, Chief, Kern County Fire Department
Dan Wall, Chief Legislative Advocate, County of Los Angeles
James Maples, County Assessor, County of Kern
Marc Del Piero, Attorney, North Monterey County Fire Protection District
Shari Freiderich, City Treasurer, City of Huntington Beach
Michael Dolder, Fire Chief, City of Huntington Beach
Erie O'Dell, City Treasurer, City of Redondo Beach
Frank Rowlen Deputy Treasurer, City of Redondo Beach
David Elder, Consultant, City of Long Beach
Roy Ulrich, Board Member, California Tax Reform Association
Barbara Hennessy, City Controller, City of Long Beach
Lyle W. Hanes, Assistant Director of Community Development,
City of Chula Vista
Joe Garuba, City of Carlsbad

The Board deferred consideration of this matter to later in the day.

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CORPORATE FRANCHISE AND INCOME TAXES HEARINGS

Kenneth R. Olsen, 58879

1995, \$ 3,914.00 Claim for Refund

Steven C. Crosby, 59767

1994, \$ 33,157.00 Claim for Refund

1995, \$ 3,913.00 Claim for Refund

For Appellant:

No Appearance

For Franchise Tax Board:

Mark McEvilly, Tax Counsel

Action: The Board took no action.

Amare Teferi and Belainesh Belatchew, 92504

1993, \$1,530.00 Assessment

For Appellant:

Amare Teferi

For Franchise Tax Board:

Terry Collins, Tax Counsel

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issue: Whether appellants have provided adequate documentation to substantiate appellant-husband's ordinary and necessary business expenses claimed for 1993.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 10.1)

Action: Upon motion of Ms. Mandel, seconded by Mr. Klehs and unanimously carried, Mr. Parrish, Mr. Klehs and Ms. Mandel voting yes, Mr. Chiang and Mr. Andal absent, the Board ordered that the appeal be submitted for decision.

Exhibits to these minutes are incorporated by reference.

Angus and Elizabeth MacPherson, 89002469160

1993, \$72,207.00 Assessment

For Appellant:

No Appearance

For Franchise Tax Board:

Ann Hoover-Hodges, Tax Counsel

Action: The Appeal was dismissed by Franchise Tax Board.

The Board recessed at 10:30 a.m. and reconvened at 10:45 a.m. with Mr. Parrish, Mr. Klehs and Ms. Mandel.

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Barry and Wendy Breslow, 31449

1994, \$86,779 Assessment

For Appellant:

Steven Danowitz, CPA

Glenn Bystrom, CPA

For Franchise Tax Board:

John Penfield, Tax Counsel

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issue: Whether, in the case of an S corporation, the credit against income tax for sales tax paid on the purchase of qualified property up to \$1 million by a qualified business in a program area applies at the shareholder level thus providing each shareholder the full credit, or at the corporate level thus providing each shareholder a pro rata share of the credit.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 10.2)

Action: Upon motion of Mr. Klehs, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Mr. Klehs and Ms. Mandel voting yes, Mr. Chiang and Mr. Andal absent, the Board ordered that the appeal be submitted for decision.

The Board recessed at 11:15 a.m. and reconvened at 11:30 a.m. with Mr. Parrish, Mr. Klehs and Ms. Mandel present.

World Media Communications, Inc., 49627

1993, \$137,574.78 Assessment

For Appellant:

Waived Appearance

For Franchise Tax Board:

Jean Cramer, Tax Counsel

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issues: Whether appellant has met its burden to prove error in the proposed assessment or the underlying federal action.

Whether appellant has shown that it is entitled to additional deductions for business expenses.

Whether appellant has shown that it is entitled to a bad debt deduction.

Action: Upon motion of Mr. Klehs, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Mr. Klehs and Ms. Mandel voting yes, Mr. Chiang and Mr. Andal absent, the Board ordered that the action of the Franchise Tax Board be sustained.

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Won S. and Insock Yoo, 92178
1991, \$ 187,279.00 Assessment
1993, \$ 14,890.00 Assessment
1994, \$ 50,634.00 Assessment
For Appellant:

Daniel J. Cooper, Attorney
Won S. Yoo

For Franchise Tax Board:

Renel Sapiandante, Tax Counsel

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issue: Whether appellants are entitled to deduct certain expenses from an amount realized on an involuntary conversion.

Whether appellants are entitled to a charitable deduction on a bargain-sale theory.

Whether appellants may include certain fees in the calculation of their adjusted basis in certain property.

Appellant's Exhibit:

Miscellaneous Documents (Exhibit 10.3)

Selvi Stanislaus, Legal Counsel, Appeals Section, Legal Department stated for the record that the appellant and the Franchise Tax Board has come to agreement regarding issue 1 and 3 and the only issue remaining before the Board is whether Appellants are entitled to a charitable deduction on a bargain-sale theory.

Action: Upon motion of Mr. Klehs, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Mr. Klehs and Ms. Mandel voting yes, Mr. Chiang and Mr. Andal absent, the Board ordered that the appeal be submitted for decision.

LEGAL APPEALS MATTERS AND FRANCHISE AND INCOME TAX MATTERS, CONSENT

Upon motion of Ms. Mandel, seconded Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Klehs and Ms. Mandel voting yes, Mr. Chiang and Mr. Andal absent, the Board expunged the record regarding the Legal Appeals Matters, Consent Agenda and Franchise and Income Tax Matters, Consent Agenda.

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LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matters: *Lightning Dubbs, Inc.*, SR AS 11-797620; 32799, *Ralphs Grocery Company*, SY AA 14-743151; 89000123230, *Sergio Blanco*, SR Y ARK 98-038983; 89002094150, *Trim-Lok, Inc.*, SR EA 16-629602; 56764, *Hemet Auto Center Leasing, Inc.*, SR EH 23-840840; 78699, *PMS A California General Partnership*, SR EA 52-005912, 89000965660, *Palace Holdings, Inc.*, SR AS 11-802944; 89000032940, *Cardservice International, Inc.*, SP UT 82-659153; 89001144640, and *Santa Ynez Band of Mission Indians*, SC AR 97-068485; 37763.

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Klehs and Ms. Mandel voting yes, Mr. Chiang and Mr. Andal absent, the Board made the following orders:

Lightning Dubbs, Inc., SR AS 11-797620; 32799
1-1-95 to 12-31-97, \$00.00 Tax, \$10,770.73 Penalty, Negligence
Action: The Board deferred consideration of this matter.

Jacob Lincoln Ribis, SR AC 13-751368; 89000072760
10-1-94 to 9-30-97, \$11,143.32 Tax, \$00.00 Penalty, Negligence
Action: Redetermine as recommended by Appeals Section.

Romualdo and Gregorio Morales, SR AC 13-848803; 89000089810
4-1-94 to 6-20-97, \$11,947.47 Tax, \$2,986.95 Penalty, Fraud
Action: Redetermine as recommended by Appeals Section.

Ultra Graphics Incorporated, SR EAA 14-636458; 89000107710
1-1-94 to 3-31-97, \$76,114.71 Tax, \$7,337.00 Penalty, Negligence
Action: Redetermine as recommended by Appeals Section.

Ralphs Grocery Company, SY AA 14-743151; 89000123230
7-22-91 to 1-29-95, \$27,458.69 Tax
Action: The Board deferred consideration of the following matter.

Fluid Ink Technology, Inc., SR AR 99-514168; 66958
1-1-95 to 3-31-99, \$23,974.02 Tax
Action: Redetermine as recommended by Appeals Section.

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Oscar Martinez, SR AA 99-567074; 37007

7-1-96 to 12-31-98, \$8,085.59 Tax, \$808.55 Penalty, Negligence

Action: Redetermine as recommended by Appeals Section.

Karl Richard Honigann, SR EA 97-023060; 89002038350

1-1-97 to 10-3-98, \$4,393.49 Tax, \$00.00 Penalty, Negligence

Action: Redetermine as recommended by Appeals Section.

Sergio Blanco, SR Y ARK 98-038983; 89002094150

7-1-94 to 12-31-96, \$12,405.24 Tax, \$1,240.53 Penalty, Negligence

Action: The Board deferred consideration of this matter.

Eran Bitton & David Golan, SY AA 99-100568; 89002103070

10-1-92 to 3-31-96, \$287,019.80 Tax, \$28,703.01 Penalty, Negligence

Action: Redetermine as recommended by Appeals Section.

Dr. Mainz U.S.A., Inc., SR AB 99-185905; 89002137260

11-1-92 to 9-30-96, \$18,776.33 Tax, \$00.00 Penalty, Negligence

Action: Redetermine as recommended by Appeals Section.

L.A. Nissan Auto Dismantling Inc., SR AC 99-323764; 89002200200

1-1-94 to 6-30-98, \$61,857.87 Tax, \$15,464.15 Penalty, Fraud

Action: Redetermine as recommended by Appeals Section.

Ramon Morales, SR AC 99-385194; 89002227950

7-1-93 to 9-30-96, \$48,471.47 Tax, \$12,117.94 Penalty, Fraud

\$ 4,847.15 Penalty, Finality

Action: Redetermine as recommended by Appeals Section.

Stratos Sports, Inc., SR AR 99-505501; 15474

1-1-95 to 1-16-98, \$1,430.73 Tax

Action: Redetermine as recommended by Appeals Section.

Miwa Sasaki, SR EH 99-629488; 15461

1-1-95 to 12-31-97, \$11,491.32 Tax

Action: Redetermine as recommended by Appeals Section.

David G. and Nancy Z. White, SB UT 84-003261; 83027

2-28-99, \$11,625.00 Tax

Action: Redetermine as recommended by Appeals Section.

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Hunter Mold and Manufacturing, Inc., SR EH 23-648492; 51467
10-1-95 to 9-30-96, \$12,091.82 Tax
Action: Redetermine as recommended by Appeals Section.

Teri Lynne Nelson, SR EA 24-864885; 19522
7-1-95 to 9-30-98, \$71,808.88 Tax, \$00.00 Penalty
Action: Redetermine as recommended by Appeals Section.

David Michael Moorefield; SR EA 53-000544; 89000970800
4-1-93 to 12-31-93, \$4,083.89 Tax, \$00.00 Penalty
Action: Redetermine as recommended by Appeals Section.

Trout's Cocktail Lounge, Inc., SR ARH 22-691463; 89000365070
4-1-92 to 3-31-95, \$23,994.99 Tax, \$2,399.49 Penalty, Negligence
Action: Redetermine as recommended by Appeals Section.

Heon Myeong Park, SR AB 97-033168; 16450
2-7-97 to 9-30-98, \$147,659.00 Tax, \$1,218.17 Penalty, Negligence
Action: Redetermine as recommended by Appeals Section.

Trim-Lok, Inc., SR EA 16-629602; 56764
7-1-95 to 12-31-98, \$9,095.87 Tax
Action: The Board deferred consideration of this matter.

Hemet Auto Center Leasing, Inc., SR EH 23-840840; 78699
7-1-98 to 9-30-98, \$21,868 Tax
Action: The Board deferred consideration of this matter.

PMS A California General Partnership, SR EA 52-005912, 89000965660
7-1-94 to 9-30-95, \$72,243 Tax
Action: The Board deferred consideration of this matter.

Mark Brian Miles, SR EH 99-212387, 19562
7-1-93 to 7-17-96, \$257,532.04 Tax, \$73,648.62 Penalty, Fraud
\$ 905.43 Penalty, Failure to File
Action: Redetermine as recommended by Appeals Section.

Palace Holdings, Inc., SR AS 11-802944; 89000032940
4-1-94 to 3-31-97, \$00.00 Tax, \$00.00 Penalty, Negligence
Action: The Board deferred consideration of this matter.

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Millhorn Chemical & Supply Co., SR AA 12-640488; 89000041800
7-1-94 to 6-30-97, \$14,810.55 Tax

Action: Redetermine as recommended by Appeals Section.

Margarita Pinto Castillo and Julian Pinto Barrera
10-1-94 to 12-31-97, \$00.00 Tax, \$00.00 Penalty, Failure to File

Action: Redetermine as recommended by Appeals Section.

Grace's, Inc., SY AA 16-602933; 89000180120
10-1-93 to 9-30-96, \$18,592.27 Tax

Action: Redetermine as recommended by Appeals Section.

California Portland Cement Company, SY AP 17-795119; 34121
7-1-96 to 6-30-99, \$295,000.000 Claim for Refund

Action: Redetermine as recommended by Appeals Section.

Mitsubishi Cement Corporation, SR EH 23-816968; 37318
7-1-96 to 6-30-99, \$350,000.000 Claim for Refund

Action: Redetermine as recommended by Appeals Section.

Robert Joseph Owens, SR GH 99-599832; 15446
7-1-95 to 6-30-98, \$6,651.45 Tax, \$00.00 Penalty, Negligence
Action: Redetermine as recommended by Appeals Section.

KDA Corporation/Cameras of San Francisco
7-1-95 to 6-30-98, \$00.00 Tax

Action: Redetermine as recommended by Appeals Section.

Bejaba, Inc., SX AR 15-717992; 89000150640
7-1-94 to 6-30-97, \$4,895.57 Tax, \$00.00 Penalty, Negligence

Action: Deny the petition for rehearing.

Holiday World, Inc., SY EH 23-879641; 89000434060
1-1-95 to 9-30-96, \$81,815.63 Tax

Action: Deny the petition for rehearing.

James Akers, SR GHC 26-725121; 89000656470
10-1-92 to 9-30-95, \$11,986.50 Tax, \$00.00 Penalty, Negligence

Action: Deny the petition for rehearing.

TUESDAY, OCTOBER 2, 2001

Cardservice International, Inc., SP UT 82-659153; 89001144640
8-31-97, \$358,462.50 Tax

Action: The Board deferred consideration of this matter.

Santa Ynez Band of Mission Indians, SC AR 97-068485; 37763
1-1-95 to 6-30-98, \$350,964.22 Claim for Refund

Action: The Board deferred consideration of this matter.

FRANCHISE AND INCOME TAX MATTERS, CONSENT

Action: (Motion expunged)

The Board recessed at 12:00 p.m. and reconvened at 1:40 p.m. with
Mr. Parrish, Mr. Klehs and Ms. Mandel present.

PUBLIC HEARING CONTINUED

**PROPOSED AMENDMENTS TO PROPERTY TAX RULE 905, ASSESSMENT
ELECTRIC GENERATION FACILITIES**

The Board deferred consideration of this matter to October 24, 2001
Sacramento Board meeting.

FINAL ACTION ON APPEALS HEARD OCTOBER 2, 2001

Upon motion of Mr. Klehs, seconded by Ms. Mandel and unanimously
carried, Mr. Parrish, Mr. Klehs and Ms. Mandel voting yes, Mr. Chiang and Mr. Andal
absent, the Board ordered that the appeal of *Amare Teferi and Belainesh Belatchew*,
92504, be denied, sustaining the action of the Franchise Tax Board.

Mr. Klehs moved to sustain the action of the Franchise Tax Board in the
appeal of appeal of *Barry and Wendy Breslow*, 31449. Ms. Mandel seconded the motion.
No vote was taken. Mr. Klehs withdrew his motion. The appeal was deferred to the
October, Sacramento Board meeting.

Upon motion of Mr. Klehs, seconded by Ms. Mandel and unanimously
carried, Mr. Parrish, Mr. Klehs and Ms. Mandel voting yes, Mr. Chiang and Mr. Andal
absent, the Board ordered that the appeal *Won S. and Insock Yoo*, 92178, be denied,
sustaining the action of the Franchise Tax Board.

TUESDAY, OCTOBER 2, 2001

CORPORATE FRANCHISE AND PERSONAL INCOME TAX HEARINGS

Jerome M. Dachman, 87440

1996, \$557.00 Assessment

1997, \$868.00 Assessment

1998, \$709.00 Assessment

For Appellant:

Jerome M. Dachman

For Franchise Tax Board:

Richard Gould, Tax Counsel

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issue: Whether pension distributions to appellant's wife are taxable in California.

Action: Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Klehs and Ms. Mandel voting yes, Mr. Chiang and Mr. Andal absent, the Board ordered that the appeal be submitted for decision, granting the Appellant 30 days to submit additional documentation, the Franchise Tax Board 30 days to review the documentation and the Appeals Section 30 days thereafter to bring the matter back to the Board for final decision.

Grazina Talandis, 88667

1998, \$3,862.00 Assessment, \$965.50 Penalty, Notice and Demand

\$965.50 Penalty, Late Filing

For Appellant:

No Appearance

For Franchise Tax Board:

Suzanne Small, Tax Counsel

Action: Appeal dismissed by the Franchise Tax Board.

Theodore M. Johnson, 88998

1993, \$5,156.00 Assessment

For Appellant:

No Appearance

For Franchise Tax Board:

Richard Gould, Tax Counsel

Action: The Board took no action.

TUESDAY, OCTOBER 2, 2001

Doug Von Kriegelstein, 94429

1992, \$999.00 Assessment, \$249.75 Penalty, Late Filing

1993, \$835.00 Assessment, \$208.75 Penalty, Late Filing

For Appellant: Doug Von Kriegelstein

For Franchise Tax Board: Suzanne Small, Tax Counsel

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issue: Whether appellant has demonstrated that he did not earn income subject to California tax and was not required to file a return.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 10.4)

Action: Upon motion of Mr. Klehs, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Mr. Klehs and Ms. Mandel voting yes, Mr. Chiang and Mr. Andal absent, the Board ordered that the appeal be submitted for decision, granting the Appellant 60 days to file his tax returns, the Franchise Tax Board 60 days to review the returns and the Appeals Section 30 days thereafter to bring the matter back to the Board for a final decision.

LaVonne A. Hodgson, 47679

1994, \$4,454.00 Assessment, \$1,113.50 Penalty, Late Filing

\$1,113.50 Penalty, Notice and Demand

For Appellant: LaVonne A. Hodgson

For Franchise Tax Board: Mark McEvilly, Tax Counsel

Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issue: Whether a "zero return" is a valid return for purposes of imposing the delinquent filing penalty of Revenue and Taxation Code section 19131, and/or the notice and demand penalty of Revenue and Taxation Code section 19133.

Appellant's Exhibit: CA Resident Income Tax Return 1994
(Exhibit 10.5)

Action: Upon motion of Mr. Klehs, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Mr. Klehs and Ms. Mandel voting yes, Mr. Chiang and Mr. Andal absent, the Board ordered that the appeal be submitted for decision.

BUSINESS TAXES APPEALS HEARINGS

Nypro San Diego, Inc., SR FH 25-853568; 78514

1-1-96 to 6-30-99, \$36,134.06 Tax

For Petitioner: No Appearance

For Sales and Use Tax Department: Warren L. Astleford, Counsel

Action: The Board took no action.

TUESDAY, OCTOBER 2, 2001

VTE Sports Productions, Inc., SR AB 97-499632; 33985
8-9-88 to 6-30-90, \$185,344.10 Tax, \$46,336.07 Penalty, Fraud
\$18,534.41 Penalty, Failure to File

For Petitioner: No Appearance
For Sales and Use Tax Department: Sharon Jarvis, Counsel
Action: The Board took no action.

Intellisec, SR AS 99-848610, 62458
4-1-96 to 12-31-98, \$50,966.93 Tax

For Petitioner: No Appearance
For Sales and Use Tax Department: Kevin Hanks, Hearing Representative
Action: The Board took no action.

Stanley Gene Lorentzen, SR AB 52-006588, 89000966070, 89000966080
1-1-93 to 2-14-97, \$4,232.51

For Petitioner: No Appearance
For Sales and Use Tax Department: Jeffrey Graybill, Counsel
Action: The Board took no action.

Octaviano M. Leyva, SR AA 99-655556, 89002346410

1-1-95 to 12-31-97, \$69,473.28 Tax

VTE Sports Productions, Inc., SR AB 97-499632; 33985
8-9-88 to 6-30-90, \$185,344.10 Tax, \$46,336.07 Penalty, Fraud
\$18,534.41 Penalty, Failure to File

For Petitioner: No Appearance
For Sales and Use Tax Department: Sharon Jarvis, Counsel
Action: The Board took no action.

Bassem Sayegh and Jaklin Sayegh, SR AP 17-800687; 50322

10-1-95 to 9-30-98, \$18,303.67 Tax, \$1,835.45 Penalty, Negligence

For Petitioner: No Appearance
For Sales and Use Tax Department: Kevin Hanks, Hearing Representative
Action: The Board took no action.

Lee-John Sobering, SR AS 99-401008

10-1-93 to 12-31-96, \$40,557.00 Tax

For Petitioner: No Appearance
For Sales and Use Tax Department: Warren L. Astleford, Counsel
Action: The Board took no action.

TUESDAY, OCTOBER 2, 2001

Keum Nam Lee, SR AC 99-136750; 89002118220
9-1-92 to 9-30-97, \$55,662.06 Tax, \$13,915.69 Penalty, Fraud
SR EA 99-525236; 89002293130
6-1-94 to 9-30-97, \$32,878.56 Tax, \$8,219.72 Penalty, Fraud
SY AP 99-826979; 89002407670
11-28-95 to 9-30-97, \$22,349.72 Tax, \$5,587.47 Penalty, Fraud
For Petitioner: Keum Nam Lee
For Sales and Use Tax Department: Kevin Hanks, Hearing Representative
Action: The Board took no action.

FRANCHISE AND INCOME TAX MATTERS, CONSENT

Upon motion of Mr. Klehs, seconded Ms. Mandel and unanimously carried, Mr. Parrish, Mr. Klehs and Ms. Mandel voting yes, Mr. Chiang and Mr. Andal absent, the Board expunged the record regarding the Franchise and Income Tax Matters.

The Board deferred consideration on the following matters: *Paul and Carolyn Irons, 78950, Continental Kiewit Inc., 98082, Louis J. and Brenda L. Alpinieri, 101508, David and Marilee J. Duff, 101519, Michael and Suzanne Gwin, 102683; Roger Phillip and Thorild Urdal, 104264 and Sandra M. Morgan, 56350.*

With respect to the Franchise and Income Tax Matters, Consent Agenda, upon a single motion of Mr. Klehs, seconded by Ms. Mandel and unanimously carried, Mr. Parrish and Mr. Klehs and Ms. Mandel voting yes, Mr. Chiang and Mr. Andal absent, the Board made the following orders:

Nonine Painter, 47204
1997, \$352.00 Assessment, \$100.00 Penalty, Late Filing
\$ 88.00 Penalty, Notice and Demand
Action: Sustain the modified action of the Franchise Tax Board.

Paul and Carolyn Irons, 78950
1985, \$48,742.00 Assessment
1986, \$49,256.00 Assessment
Action: The Board deferred consideration of this matter.

Susan Hathaway, 89009
1996, \$471.29.00 Claim for Refund
Action: Sustain the action of the Franchise Tax Board.

TUESDAY, OCTOBER 2, 2001

Ed Loomis, 90037

1998, \$3,349.00 Assessment, \$837.25 Penalty, Late Filing

Action: Sustain the action of the Franchise Tax Board and impose a frivolous appeal penalty of \$500.00.

Robert Camp, 90041

1998, \$1,112.02 Assessment, \$278.01 Penalty, Late Filing

\$301.75 Penalty, Notice and Demand

Action: Sustain the action of the Franchise Tax Board and impose a frivolous appeal penalty of \$500.00.

Stanley Katz, 93384

1998, \$1,404.50 Claim for Refund

Action: Sustain the action of the Franchise Tax.

Rebecca Gutierrez, 94731

1996, \$2,411.00 Assessment

Action: Sustain the modified action of the Franchise Tax Board and impose a frivolous appeal penalty of \$500.00.

Larry McCaughey, 97659

1993, \$1.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Continental Kiewit Inc., 98082

1990, \$251,359.00 Assessment

Action: The Board deferred consideration of this matter.

Jessica (Kron) Pierce, 99287

1990, \$1,793.79 Assessment

Action: Reverse the action of the Franchise Tax Board.

George E. and Thelma H. Stocking, 99647

1998, \$1.00 Claim for Refund

Action: Sustain the modified action of the Franchise Tax Board.

Douglas R. Souvignier, 99648

1999, \$208.60 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

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Geo. E. McCalip, 101130

1998, \$2,345.00 Assessment, \$586.25 Penalty, Late Filing
\$586.25 Penalty, Notice and Demand

Action: Sustain the action of the Franchise Tax Board and impose a frivolous
appeal penalty of \$500.00.

Louis J. and Brenda L. Alpinieri, 101508

1995, \$10,240.00 Assessment

Action: The Board deferred consideration of this matter.

David and Marilee J. Duff, 101519

1998, \$5,232.98 Claim for Refund

Action: The Board deferred consideration of this matter.

Michael and Suzanne Gwin, 102683

1994, \$5,946.00 Claim for Refund

Action: The Board deferred consideration of this matter.

Michael R. Hulsey, 102703

1991, \$ 7,040.73 Claim for Refund

1992, \$ 19,798.74 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Roger Phillip and Thorild Urdal, 104264

1991, \$1,933.00 Assessment, \$386.60 Penalty

Action: The Board deferred consideration of this matter..

Glenn H. and Sue Woodard, 104362

1997, \$955.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Estate of Sheldon D. Blair, Deceased and Devona A. Siner, 105018

1997, \$108.00 Assessment

Action: Sustain the modified action of the Franchise Tax Board.

William S. Kaplan, 106418

1995, \$1.00 or more Assessment

Action: Sustain the action of the Franchise Tax Board.

TUESDAY, OCTOBER 2, 2001

Howard E. and Donnita A. Loveless, 108803

1996, \$293.00 Assessment

Action: Sustain the modified action of the Franchise Tax Board.

James L. and Helen J. Batson, 110563

1997, \$1,115 Assessment

Action: Sustain the action of the Franchise Tax Board.

Vinit Budhiraja, 114011

1997, \$157.50 Assessment

Action: Sustain the action of the Franchise Tax Board.

Vernese H. Halley, 115486

1997, \$1,006.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Su Van Tran, 98R-1343; 89002460800

1994, \$900.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

CDA Cable, Inc., 27319

1985, \$ 73,031.00 Assessment

1988, \$ 43,369.00 Assessment

1989, \$ 737.00 Assessment

1990, \$ 30,141.00 Assessment, \$16,692.00 Claim for Refund

1991, \$ 23,267.00 Assessment, \$23,509.00 Claim for Refund

1992, \$ 18,099.00 Assessment, \$15,293.00 Claim for Refund

1993, \$ 12,191.63 Assessment, \$13,891.00 Claim for Refund

Action: Deny the petition for rehearing.

Sandra M. Morgan, 56350

1997, \$1,158.00 Assessment

Action: The Board deferred Consideration of this matter.

William L. Hanzel, 62135

1996, \$645.00 Assessment

Action: Deny the petition for rehearing.

TUESDAY, OCTOBER 2, 2001

Michael Galotta, Sr., 83320
1998, \$2,261.00 Assessment, \$565.25 Penalty, Late Filing
\$565.25 Penalty, Notice and Demand
Action: Deny the petition for rehearing.

McKittrick Ranch, Inc., 98A-0954; 89002464250
1986, \$192,880.00 Assessment
Action: Deny the petition for rehearing.

The Board adjourned at 2:30 p.m.

The foregoing minutes are adopted by the Board on November 29, 2001.